

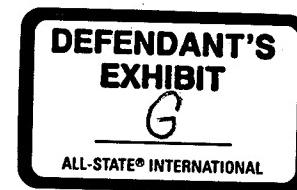
Ronald Kirstien

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MARYLAND
3 NORTHERN DIVISION

4 -----X
5 JAMES GARCIA, et al., :
6 Plaintiffs, : Case No.
7 v. : B-01-103
8 RONALD D. KIRSTIEN, et al., :
9 Defendants. :
10 -----X

11
12
13 Deposition of Ronald D. Kirstien
14 Baltimore, Maryland
15 Tuesday, January 6, 2004



20
21 Reported by: Kimberly Francis Smith
22 Job No. 157522

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1 blips up in sales but they were losing
2 transactions.

3 As an example, Jim called me one time to
4 tell me that he had cut a deal with the Virginia
5 school system. And I asked Jim what the magnitude
6 of the sales would be. And the best I recall is it
7 was somewhere between a million and a million and a
8 half dollars.

9 Well, I asked the accountants to take
10 a look at the business. And after three months of
11 being into this thing we were losing \$20,000 a
12 month to the school systems.

13 I'm trying to answer the question like
14 you have asked it, counselor, but the reality is
15 sometimes Jim would make very bad business
16 decisions and wind up getting sales that we would
17 lose money at.

18 And this happened on more than one
19 occasion where Jim continued to go out and try to
20 find sales and basically give our product away and
21 we would lose money.

22 Q. Did you ever match up Mr. Habeck or his

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1 company's bills with actual sales to ascertain --
2 and a contract to ascertain --

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3 A. It wasn't my responsibility.

4 Q. -- to ascertain whether he was being
5 overpaid or not?

6 A. No.

7 Q. Do you know whose responsibility that
8 was?

9 A. To the best of my knowledge it was their
10 accountant. And to the best of my knowledge again
11 they reconciled that every quarter to make sure
12 that the numbers were right.

13 Q. When you say their accountant, who are
14 we talking about?

15 A. Randy McDonald I believe was the
16 person's name over there.

17 Q. Were you aware approximately how much
18 the Giant sales were, how much sales --

19 A. I don't recall.

20 Q. Were you aware that the broker's
21 commitment or commissions were not to be charged on
22 military sales and school sales and things of that

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1 going on that Chef Garcia was paying checks to
2 J. P. Foods approximating about \$60,000 throughout
3 the year of 1997 on a regular basis?

4 A. Again, counselor, I did not take care of
5 the checks and look at that stuff. I looked at
6 balance sheets and P & Ls. I can't say who got
7 paid or who didn't get paid.

8 Q. Now, after Jim Garcia and his wife were
9 fired do you recall any receipts being -- back
10 payments or receipts of that sort coming in from
11 J. P. Foods?

12 A. I don't recall.

13 Q. Do you recall generally that there
14 was -- as a result of the combination of general
15 statements that I've made that J. P. Foods was sort
16 of a disaster, that it was a disaster in 1997 for
17 Garcia?

18 MR. ROSWELL: Objection. Go ahead.

19 THE WITNESS: I can't again answer that
20 question. I don't know whether -- J. P. and we
21 were having obviously many problems because we had
22 vendors bugging us for payments that according to

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1 our records showed that they were paid.

2 And Jim Garcia unfortunately continued
3 to lie to the board as well as to everybody
4 associated with the company.

5 BY MR. ALBRIGHT:

6 Q. Well, the problems in payment of bills
7 that Chef Garcia owed, the source of that problem
8 could well be --

9 A. Let me give you an example, counselor.

10 Q. -- let me finish my question -- could
11 well be, do you not agree, the failure of
12 J. P. Foods to pay what they were required to pay?

13 MR. ROSWELL: Objection. Go ahead.

14 THE WITNESS: Let me give you an
15 example, counselor, of one situation I was aware
16 of. Sysco -- I believe it was Sysco -- was selling
17 raw ingredient products to Chef Garcia, the
18 corporation.

19 Jim would not pay Sysco. Sysco then
20 would order Chef Garcia finished product. The
21 finished product would go to Sysco for sale on
22 their street business and whatnot.

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1 A. I have no clue.

2 Q. As far as you -- when is about the last
3 time you can recall that you ever had your
4 attention brought to the J. P. Foods problem?

5 A. I can't recall.

6 Q. Now, you will agree that there are
7 resemblances between what -- the problem that you
8 saw with J. P. Foods as far as Chef Garcia is
9 concerned and the problems that were being
10 recounted in the press concerning J. P. Foods.

11 A. Not at all.

12 Q. What differences do you see?

13 MR. ROSWELL: Let me object. Go ahead.

14 THE WITNESS: The difference is we
15 don't -- I still don't know whether they owed us
16 the money or not because Jim kept cooking the
17 books.

18 And as he continued to distort the
19 numbers we couldn't get a handle on receivables or
20 payables because he would bury checks in the desk
21 and say they were paid and they were not paid. I'm
22 trying to answer the question as best as I can,

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1 counselor. But we never could reconcile anything
2 Jim gave us.

3 BY MR. ALBRIGHT:

4 Q. Are you saying that you couldn't
5 reconcile through Marjorie Robinson's papers and
6 Mr. Habeck's papers as to how much J. P. Foods
7 really owed Chef Garcia?

8 A. That wasn't my job.

9 Q. But does the problem you have just
10 mentioned about Jim Garcia have anything to do with
11 the J. P. Foods problem in which they weren't
12 paying their bills?

13 A. Possibly.

14 Q. Why do you say possibly? What
15 connection?

16 A. It could have been buying raw product
17 from J. P. Foods and they were taking deductions
18 because he was buying raw product to convert it
19 into product and then sell them product and he
20 wasn't paying them.

21 Q. That is a surmise on your part?

22 A. Absolutely.

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